Previous references.

1912
~~190~~ .
(Courts)

File No. 134-12

Serial Nos. 1-2

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B. for Jan. 13

SUBJECT.

Delay in the disposal of a Criminal case by
Mr C. Machaiah

1) From the Registrar, Chief Court, no 1735/119 dt 22-11-12
Forwards certain papers on the above subject

2) To the Registrar, Chief Court, no 1931 dt 10-1-13
Records R-1

G. R. S. 58

16(1)/13

G.R.S. 11] 1912-13.

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

Cts File No. 134-12.

FILE HEADING.

Delay in the disposal of a Criminal case tried by Mr. C. Machiah

From

The Registrar, Chief Court

No. 1735/119 Dated 22-11-12 Received 25.11.12.

Diary No. 1379 | Enclos. one file Spare Copies. | Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards for information a copy of Chief Courts proceedings in a Criminal revision Case ~~bro~~ bringing to notice the long delay in the disposal of a case tried by Mr C. Machiah Assist Comm & 1st Class Magte - Maddagiri Sub Dn.

NOTES AND ORDERS.

Subd.

Secs 12 - SW(11) 27.11.12

27/11/12

2

27/11/12

Seen

NOTES—First Sheet.

GPB—30,000—12-8-11

(R. S. 12]

General and Revenue Secretariat.

File No. 13 of 191

Serial No.

3) A copy of the remarks made by the Chief Conservator in respect of the Machai may be sent to him through the Deputy Commissioner with the observation that for two years the Machai will not be accessible for such structures against him in future.

4) The remarks of the Chief Conservator about the delay in the disposal of the case may be communicated to the DFO for taking adequate steps in the matter

1st Conservator 13 9/12

5) may be recorded with the observation that the Range concerned should be asked to show more promptness in the disposal of cases.

Bill 23/12/12 13 24/12

6) Draft 26/12/12

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

1379

R. S. 12]

General and Revenue Secretariat. | Cls File No. 134 of 1912-13

Serial No.

Draft for Subs.

Secy 122 SW(11)
4.1.13

SW
6/1/13

Ld)
9) apps. Secy Subsns
to Dewan for perusal

SW
8/1/13

2 Do Mr Registrar, chief Court,
No. 1931/Cls-134-12-2 d: 10th January 1913.
Records the chief courts letter with the remark that the Magistrate (Mr C. Macleish) shd be asked to show more promptitude in the disposal of criminal work.

939
18.1.13

9) Subd to Dewan for perusal.

SW
18/1/13

Secy Thanks
24-1-13 RB

B
28/1/13

25/1
27/1/13

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

No: 1735/119 True Copy & Records

Chief Court of Mysore,

Bangalore, dated 22nd November 1912.

From

The Registrar of the
Chief Court of Mysore.

DIARY No. 1379

1912-1913
SECTION Cl
FILE No. 134-12
SERIAL No. 1.

To

The Secreatry to the
Government of Mysore
General and Revenue Departments.

S i r ,

Adverting to your letter No: 1538/J dated the 2nd February 1904, I am directed to forward for the information of Government copy of order in Criminal Revision Petition No: 29 of 1912-13 on the file of this Court.

The records in Criminal case No: 60 of 1910-11 with the records in the connected Criminal case No: 61 of 1910-11 on the file of the Assistant Commissioner and First Class Magistrate, Maddagiri Sub Division are herewith sent for reference and return when no longer required.

I have the honor to be,
S i r ,
Your most obedient servant,

REGISTRAR.

H.C.C.

137.

N o t e : Perusal of the records in this and the counter case discloses a most discreditable delay in the disposal. The complaint in this case (C.C. No. 61/1910-11 on the file of the lower court) was filed on 24-3-1910 and judgment was not pronounced till 15-7-1912, so that the case took 2 years and 3½ months for disposal. Analysis of the reasons for this shows the complaint was forwarded by the District Magistrate Tumkur for disposal by the Amildar and 2nd class Magistrate Kunigal. He forwarded it to the local Police Inspector on 26-3-1910. for investigation. By the way I would remark that it is usually not a wise exercise of discretion to send to the police for report a complaint @@ against a police officer. It is not a ~~grounding~~ proceeding likely to inspire in the public a feeling that justice will be done. From 26-3-1910 to 18-10-1910 off and on the case was apparently with the police under investigation. This gross delay requires @@@a departmental enquiry. On 30-12-12 the case was transferred for disposal to the Gubbi Sub Divisional Magistrate, again on 10-2-11 to Maddagiri Sub Divisional Magistrate and again on 11-2-1911 back to Gubbi Sub Divisional Magistrate, and apparently, though nothing is on record back again to the Maddagiri Sub Divisional Magistrate. The result of all this was that the case was even opened for trial until 26-4-1911 over a year since the complaint.

complaint. It and the counter case (C.C.60/10-11) were tried more or less together and after some 13 adjournments, were disposed of on 15--7-1912. Perusal of the notes of adjournments shows that time after time accused and witnesses, though bound over, were absent and yet no action was taken to enforce attendance. No bonds were forfeited, no warrants were issued. The trial of thés case was by Mr. C. Machiah and his reasons for occupying 1½ years in the trial of it are by no means accepatable.

s/d E. H. Wallace

A.V. Judge.

'Copy'

Registrar.

MR.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Wednesday, the 20th day of November 1912.

Before Mr. Justice E. H. W a l l a c e.

Criminal Revision Petition No. 29 of 1912 - 13.

1. Thopiah.
2. Channathimma.
3. Krishna Sastry. (Accused). Petitioners.

(By Messrs. L.Srinivasiengar and V.Venkatachar).

VS.

Linganna. (Complainant). Opponent.

(By Messrs. S.Ranganna and H. Nanjundayya).
Government Advocate for Government.

Petition praying that the proceedings in Criminal Case No. 60 of 1910-11 (with the records in the connected Criminal Case No. 61 of 1910-11) on the file of the Assistant Commissioner and 1st class Magistrate, Maddagiri Sub Division, may be called for and revised.

This petition coming on for hearing on Tuesday, the 5th day of November 1912, the Court pronounced the following : -

O R D E R

Petitioners pray for revision by this Court of the conviction and sentences passed on them by the 1st class Magistrate, Maddagiri Division. Petitioners 1 and 2 were convicted of theft of sugar cane and 3rd petitioner of mischief. Briefly the prosecution case was that when ~~the~~ complainant had reaped his sugar

cane

cane field and removed the cane to the mill, petitioners 1 and 2, having put in a false complaint to third petitioner, police Jamedar, got him to come to the mill @ and all three removed the sugar cane in carts to the police station.

2. I have gone carefully through this case and can find no reason to differ from the finding of the lower court with reference to petitioners 1 and 2. The evidence that they had no prima facie right to the sugar cane is cogent and credible and it is clear that their action in invoking the aid of the police in order to try and secure the sugar cane for themselves was dishonest and that their intention was to cause wrongful loss to @@@ complainant, whose cane it was. I see no reason to interfere with their conviction and sentence.

3. The cae of third petitioner is different. I can find no evidence that he knew that the sugar cane belonged to complainant, that he combined with the other petitioners to remove it dishonestly, nor is any motive suggested why he should do so. The petition put in to him by 1st and 2nd petitioners, Exhibit D_1, was a complaint by 1st and second petitioners of theft of their sugar cane, and 3rd petitioner was only doing his duty in securing the corpus delicti. There is no proof that he intended to

cause

cause wrongful loss to complainant. His conviction for mischief cannot be upheld and is hereby set aside. The fine imposed on him, if collected, should be refunded.

4. The lower court emphasises the fact that 3rd petitioner acted ultra vires. Even if he did, which is not clear, and even if he omitted to send the usual reports, that is no proof that he acted criminally. It is a matter for departmental notice.

5. The lower court has gone elaborately into the question of to whom the carts used in carting the cane to the police station should returned. Petitioners have not raised any objections on this matter, but ordinarily in a criminal court, properties not directly the mater of offence should be returned to the party from whom they came into court.

6. The lower court has improperly used in this case the depositions of accused, when examined as prosecution witnesses in the counter case, without filing them in this case and without any statements on the part of the accused that their defence in this case was contained in these depositions.

Sd/- E.H.Wallace.

Judge.

Note.

G.R.S. 28]

C ts **File No.** 134–12.

Serial No. 2.

*Diary No. of letter replied to*_____

Proceedings of the Government of His Highness the Maharaja of Mysore

GENERAL AND REVENUE SECRETARIAT.

( )

, *the* 191 .

READ— Letter N 1735/119 dated the 22nd November 1912 from the Registrar, Chief Court, forwarding for information a Copy of Chief Court's Progs in Criminal Revision Petition N 29 of 1912–13 & requesting the delay in the disposal

over.

Date of issue 10-1-13

Signed by Mr S. Srinivasaraja

~~ORDER THEREON.—No.~~

SUBJECT.

on the part of Mr. C.
Machiah Assistant Commr
and 1st Class Magistrate
Maddagiri Sub Division,
in the Disposal of Criminal
Case No 601/61 of 1910-11 on the
file of this Court.

Order thereon. No of 1931 Encl records of 10-1-13

Recorded with the
remark that the Magistrate
Concerned should be asked
to show more promptitude
in the disposal of Criminal
work.

In Secy to Govt

To

The Registrar, Chief Court
(returning the record)